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organization, however, the mother, who brings up the children and who is capable of supporting the children, may be made responsible for doing so, in addition to the father.[1] If, in case of conflict, decisions have to be made, the interests of the child are the most important factor.

The influence of guilt on the determination of property disposition has been mentioned above, and the consequences of divorce with respect to the property will be repeatedly mentioned in the treatment of the law of marital property.

C. MARITAL PROPERTY

The families that come into being by marriage require a material foundation. The husband and wife (with their children) must carry on life jointly as a family unit, and for that purpose they must have goods at their disposal. Where the kinship unit has great social significance as a community, family property is distinguished from the kin group property. Sometimes the boundaries are weak and evanescent; sometimes distinct and clearly visible. Where the kin groups do not occur as organized units, the families with their possessions are the delimited nuclei of the communities, but nevertheless the close kin group relationship extends over the families and exerts an influence on the legal status of the family property. Counter to the kin groups as communities, the family emancipates itself; it lives in a daily equilibrium with these larger groups, but also in a certain tension. In more advanced relationships it is in process of wresting itself free, or has wrested itself free, from the closed character of the organized kinship group. Vice versa, the claim of the kin group as an unorganized group of relatives asserts itself again and again. By the law of matrimonial property the family possessions are kept in their place between the two poles of unequal strength, the kin group and the family.

Generally speaking, a fourfold distinction can be made with respect to family property: (a) property that is given to or has accrued to one of the spouses from his or her kin group as a result of partition or inheritance; (b) property acquired by each of the marriage partners for himself, before or during the marriage; (c) property acquired in common by the marriage partners during the marriage; (d) property presented jointly to the couple at the time of marriage.

1. *Inherited property.*—It is a generally valid principle of Indonesian adat law that property obtained from one's own family by

[1] [i.e. in cases of divorce -- Analyst]

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inheritance or partition remains in the native possession of that spouse from whose family the property originated. Such property is called "pimbit" (Ngaju Dyak), "sisila" (Macasser), "babaktan" (Bali), "asal," "asli," "pusaka" (Java, Malay), or "gana," "gawan" (Java). In case of divorce the possessions accordingly remain with the marriage partner possessing them, and after the death of the native possessor, property does not pass outside the kin group; especially, it does not pass by inheritance to the other spouse, and perhaps for that reason, in Java it does not pass to adopted children, either. People say that this is in order that the property shall not get lost. Among the Minangkabau, kin group property can never be assigned by partition, and it cannot pass by inheritance to an individual member of the extended family group. As to this matter, the small family, or the branch of the family group, stands out but feebly, in consequence of the right of utilization of the extended family possessions.[24] But nearly everywhere else, the separateness of kin group property, which has been made family property, is sharper. Possessions, which are given to the marrying woman as wedding outfit, sometimes (among the Pasemah, for example) remain her possessions, even in a patrilineal system, and pass by inheritance to her children; and in the event of her dying childless they pass to her husband. Although, in case of divorce, the wife takes them back with her to her own family group. Lands, which were given to the woman as a bridal present among the Bataks, pass to her husband (and to her) in native possession, although every disposal embracing them requires consultation with the wife's extended family. If there are children, then they are the natural successors in the following generation to the possessions inherited through the parents or received by way of partition. (See pp. 195, 204.) Children are the focus where the differentiated family property of the parents joins as property of one kind (namely as "barang asal"). Among the Dyaks, the concept of "pusaka" comprises in addition to inherited possessions those objects (of a magical nature) which one obtains, for example, as marriage payment or as booty, and which are predestined to be transferred as inheritance to the heirs. In contrast with "pusaka" in the general sense of "sacred possession," are the possessions acquired by individual labor, by no means "holy" for the obtainer, which the Ngaju Dyaks lump

[24] The "ganggum beuntuiq" of the "harta pusaka" (see, pp. 97 and 126), similar to the family right to "pusaka" goods in Ambon.